

Order

**Michigan Supreme Court
Lansing, Michigan**

September 19, 2006

Clifford W. Taylor,
Chief Justice

ADM File No. 2002-09

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Adoption of Rules
3.904 and 5.738a of the Michigan
Court Rules

On order of the Court, this is to advise that the Court is considering the adoption of Rules 3.904 and 5.738a of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing. The notices and agendas for public hearings are posted on the Court's website at www.courts.michigan.gov/supremecourt.

Publication of the proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[The following proposals would become new rules if adopted.]

Rule 3.904 Use of Interactive Video Technology

- (A) Facilities. Courts in the family division may use two-way interactive video technology to conduct the proceedings outlined in paragraph (B) between a courtroom and a jail, prison, hospital, mental health facility, detention facility, or other placement facility.
- (B) Hearings.
 - (1) Delinquency Proceedings. Two-way interactive video technology may be used to conduct preliminary hearings under MCR 3.935(A)(1), postdispositional progress reviews, and dispositional hearings where the court does not order a more restrictive placement or more restrictive treatment.

- (2) Child Protective Proceedings. Two-way interactive video technology may be used to conduct preliminary hearings or review hearings.
- (C) Mechanics of Use. The use of two-way interactive video technology must be conducted in accordance with any requirements and guidelines established by the State Court Administrative Office. All proceedings at which such technology is used must be recorded verbatim by the court.

Rule 5.738a Use of Interactive Video Technology

- (A) Facilities. Probate courts may use two-way interactive video technology to conduct the proceedings outlined in paragraph (B) between a courtroom and a hospital, mental health facility, or other treatment facility.
- (B) Hearings. Probate courts may use two-way interactive video technology to conduct hearings concerning initial involuntary treatment, continuing mental health treatment, and petitions for guardianship involving persons receiving treatment in mental health facilities.
- (C) Mechanics of Use. The use of two-way interactive video technology must be conducted in accordance with any requirements and guidelines established by the State Court Administrative Office. All proceedings at which such technology is used must be recorded verbatim by the court.

Staff comment: Proposed Rule 3.904 would allow courts in the family division to use two-way interactive video technology to conduct certain hearings for delinquency and child protective proceedings in accordance with requirements and guidelines set forth by SCAO. Proposed Rule 5.738a would allow probate courts to use two-way interactive video technology to conduct hearings concerning initial involuntary treatment, continuing mental health treatment, and petitions for guardianship involving persons receiving treatment in mental health facilities in accordance with requirements and guidelines set forth by SCAO. All proceedings in both the family division and the probate courts would be required to be recorded verbatim by the court.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by January 1, 2007, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to

ADM File No. 2002-09. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 19, 2006

Corbin R. Davis

Clerk